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Attorney for Plaintiff,
JEFFREY AMESTOY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JEFFREY AMESTOY,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendants.

Case No.: 1:20-cv-01075-NONE-SKO

IN ADMIRALTY

**JOINT STIPULATION AND ORDER
TO EXTEND FACT DISCOVERY
CUTOFF DATE**

(Doc. 23)

Plaintiff JEFFERY AMESTOY and Defendant UNITED STATES OF AMERICA and their respective counsel of record, collectively (“the Parties”), hereby submit this second joint stipulation to modify the fact discovery cutoff date set by the initial Scheduling Order by sixty (60) days.

On May 14, 2021, the parties submitted their filed a Joint Stipulation and [Proposed] Order to Extend the Expert Disclosure and Expert Disclosure and Rebuttal dates [Doc 20]. Therein the parties sought to extend those dates, and the expert discovery cutoff dates by 60 days. At the time the Parties had intended to also request that the Court extend the fact discovery cutoff date but through inadvertence, failed to include that request in their Joint Stipulation and [Proposed] Order. Modifying Scheduling Order, intending to extend all of the pretrial dates, including the fact

1 discovery cutoff date by 60 days. Therein the parties showed good cause for the request
2 to wit:

3 The Parties assert that there is good cause to amend the Scheduling Order [Docket
4 No. 17] and propose the schedule set forth below.

5 The request for extension is based on the following:

6 1. The Parties have been diligent in conducting discovery. The Parties have
7 each propounded a set of written discovery.

8 2. The Parties completed a private mediation on April 28, 2021 with Harris
9 Weinberg. Although the matter was not resolved at that time, the parties came up with a
10 discovery plan and have agreed to a second mediation session with Mr. Weinberg.

11 3. The depositions of Plaintiff and crewmember witnesses are anticipated to be
12 completed in July 2021.

13 4. The COVID-19 pandemic and government responses thereto may
14 significantly affect the Parties' ability to conduct remaining discovery in this case. The
15 vessel on which the subject incident occurred is in Saipan. It is not accessible to visitors
16 (including the parties' experts) due to government and coast guard restrictions.

17 5. Plaintiff is a seaman and has not been able to sign off the vessel he is
18 currently assigned to complete a deposition, remotely or otherwise. The witnesses to the
19 subject incident are seamen and have not been able to sign off the vessel(s) they are
20 currently assigned to complete deposition(s), remotely or otherwise. Plaintiff is currently
21 on a vessel off the coast of Saipan. The witnesses are on vessels off the coasts of Saipan
22 and Guam.

23 6. The Parties have discussed the timing of their expert disclosures and agree
24 that an inspection of the incident location and completion of Plaintiff and witness
25 depositions is required for their experts' full assessment and opinions. The Parties believe
26 a continuance of the Expert Disclosure and Rebuttal deadlines is necessary to allow time
27 for completion of depositions, an inspection of the incident location, and to finalize and
28 exchange expert reports. The Parties believe that the denial of their request for a

1 continuance of the liability expert exchange and rebuttal deadlines will result in prejudice
2 to both Parties because they will be unable to effectively prepare or defend the case as a
3 result of a lack of liability expert assessment and opinions.

4 7. The matter is set for a settlement conference on October 12, 2021. The
5 parties intend to have their expert reports exchanged prior to this settlement conference.

6 8. In light of the above, the Parties submit there is good cause for the
7 continuance reflected in the Parties' proposed schedule. Accordingly, the Parties jointly
8 and respectfully request the continuances outlined below.

9 Through inadvertence, the Parties failed to include the fact discovery cutoff date
10 among the dates listed in that Joint Stipulation and Order and on May 21, 2021 the Court
11 issued its Order Modifying the Scheduling Order [Doc 21] as requested by the parties.
12 The Parties now jointly ask the court to extend the fact discovery cutoff for sixty (60)
13 days as follows:

	<u>Matter Current Date:</u>	<u>New Response</u> <u>Date:</u>
14 Fact Discovery Cutoff	15 July 6, 2021	16 September 6, 2021

17
18
19 There has been one prior request for an extension of discovery or trial deadlines.
20 This request seeks to conform the Fact Discovery Cutoff to the modified schedule set by
21 the Court in its Order Modifying the Scheduling Order referenced above.

22 In light of the above, the Parties submit there is good cause for the continuance
23 reflected in the Parties' proposed schedule. The proposed date change was selected and
24 agreed upon to allow sufficient time for completing discovery and attending the October
25 12, 2021 settlement conference, if the parties are unable to resolve this through private
26 mediation.

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1 IT IS SO STIPULATED.

2 Respectfully submitted.

3
4 Dated: June 30, 2021

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Of Counsel to the United States

23 Dated: June 30, 2021

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25
26 By: /s/ Charles D. Naylor
27 CHARLES D. NAYLOR
28 Attorneys for Plaintiff
JEFFREY AMESTOY

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IT IS SO ORDERED.

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE